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Date: December 3, 2003

By:


William F. Gadlin, Registration No. 37,136

Docket No.: 4380-102 (formerly 045112-0085)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

**RECEIVED
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DEC 03 2003

In re Application of)	
)	
Steven M. BESSETTE)	
)	
Serial No.: 09/604,158)	Group Art Unit: 1651
)	
Filed: June 27, 2000)	Examiner: Patricia Patten
)	
For: PESTICIDAL COMPOSITIONS)	
CONTAINING PLANT ESSENTIAL OILS)	
AGAINST DUST MITES)	

AMENDMENT AND REPLY

Honorable Commissioner for Patents
Washington, DC 20231

Dear Sir:

This paper is being filed in response to an Office Action dated 03 June 2003. Please grant a three-month extension of time for entry of this communication. Please charge the small entity extension of time fee to Deposit Account No. 14-1140.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 3 of this paper.

Adjustment date: 02/06/2004 SDIRETAK
12/30/2003 DTHOMAS 00000004 141140 09604158
01 FC:2253 473.00 CR

Nixon & Vanderhye P.C.

ATTORNEYS AT LAW

8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON, VIRGINIA 22201-4714

January 29, 2004

TELEPHONE: (703) 816-4000
FACSIMILE: (703) 816-4100
WRITER'S DIRECT DIAL NUMBER:
(703) 816-4057
EMAIL: WFG@NIXONVAN.COM

VIA FACSIMILE

MAIL STOP 16

Director of the U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Subject: **REQUEST FOR REFUND TO DEPOSIT ACCOUNT**

Deposit Account No. **14-1140**
Statement Date: January 5, 2004
Date Posted: December 15, 2003
(and December 30, 2003)
SEQ No.: 3 (and 4)
Fee Code: 2253
USPTO Ref.: 09/604,158
Our Ref.: 4380-102

To whom it may concern:

Regarding the Monthly Statement of Deposit Account dated January 5, 2004, (copy attached), we believe there is a fee related error therein, which has resulted in a charge to our Deposit Account that appears to be unwarranted. Please refer to the following explanation and issue a refund as soon as possible.

In a Response to the Office Action dated June 3, 2003 (copy attached), we authorized the Small Entity Extension of Time fee to be charged to our Deposit Account. The fee, however, was charged twice to our Deposit Account, once on December 15, 2003 and again on December 30, 2003. A prompt refund is respectfully requested for \$475.00.

Thank you for your time and assistance, and if you have any questions, please do not hesitate to call me at the above number.

Very truly yours,

NIXON & VANDERHYE P.C.

By:

Willem F. Gadano

WFG:ewm
Enclosures

Nixon & Vanderhye PC.
ATTORNEYS AT LAW

8TH FLOOR
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ARLINGTON, VIRGINIA 22201-4714

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FACSIMILE: (703) 816-4100
WRITER'S DIRECT DIAL NUMBER:
(703) 816-4057

FACSIMILE COVER SHEET
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Our Ref.: 4380-102
Your Ref.: 09/604,158 Date: January 29, 2004

To: Director of the U.S. Patent & Trademark Office c/o Refunds
Branch

Firm: United States Patent & Trademark Office

Facsimile No.: 703-308-5077

From: Willem F. Gadiano

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ewm
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ATTACHMENT/S:

1. Request for Refund to Deposit Account (1 page);
2. Copy of 1/5/04 Deposit Account Statement (2 pages); and
3. Copy of Response to Office Action filed 12/03/03 (4 pages).

MESSAGE: PLEASE SEE ATTACHED.

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#812840 v1 - Refund fax cover

Deposit Account Statement

Page 1 of 2



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Patent and
Trademark Office**

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Deposit Account Statement**Requested Statement Month:**

December 2003

Deposit Account Number:

141140

Name:

NIXON & VANDERHYE P.C.

Attention:

LENARD MITCHARD

Address:

1100 N GLEBE ROAD

City:

ARLINGTON

State:

VA

Zip:

22201-4714

DATE	SEQ	POSTING REF	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
12/01	4	10088026	124-933 <i>APL</i> 1453		\$1,330.00	\$13,483.98
12/03	1	10041681	900-411 <i>HWD</i> 251		\$110.00	\$13,373.98
12/03	3	10707271	<i>MJK</i> 839-1519	1001	\$770.00	\$12,603.98
12/03	3	10158135	1767-96	1251	\$110.00	\$12,493.98
12/03	4	10158135	<i>MJK</i> 1767-96	1202	\$162.00	\$12,331.98
12/03	5	10158135	1767-96	1201	\$86.00	\$12,245.98
12/03	86	10468282	<i>LSN</i> 36-1712	1611	\$160.00	\$12,085.98
12/04	9	09989104	<i>JRL</i> 2789-43	1501	\$30.00	\$12,055.98
12/05	1	09544542	<i>LSN</i> 922-90	1201	\$86.00	\$11,969.98
12/05	2	09899303	<i>BJ</i> 2551-109	9204	-\$130.00	\$12,099.98
12/05	7	09623681	<i>SCS</i> 540-231	1402	\$10.00	\$12,089.98
12/05	141	10725777	<i>1201-97 APL</i>	9204	-\$62.00	\$12,151.98
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12/09	9	10423053	<i>1579-808 BHD</i>	9204	-\$295.00	\$12,576.98
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12/15	2	10405235	<i>MJS</i> 4175-3	2202	\$117.00	\$21,831.98
12/15	3	69604158	<i>4380-102 WFG</i>	2253	\$475.00	\$21,356.98
12/15	3	10405235	<i>MJS</i> 4175-3	1806	\$180.00	\$21,176.98
12/15	7	10469037	<i>3687-54 APL</i>	9204	-\$65.00	\$21,241.98
12/15	189	09786721	<i>BHD</i> 2101-8	1801	\$20.00	\$21,221.98
12/16	1	09485529	<i>MJW</i> 620-91	1253	\$840.00	\$20,381.98

Deposit Account Statement

12/16 14	10207794	MJS	1767-102	1201	\$430.00	\$19,951.98
12/16 15	10207794		1767-102	1202	\$198.00	\$19,753.98
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12/16 60	10707468	MJK	839-1504	1001	\$770.00	\$18,803.98
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12/17 3	10467929	ARC	2491-29	1615	\$216.00	\$16,443.98
12/17 4	09604157	4380-98	WTG	1252	\$420.00	\$16,023.98
12/18 2	10468079	ARC	117-469	2617	\$65.00	\$15,958.98
12/18 4	09585329	RWF	723-749	1251	\$110.00	\$15,848.98
12/18 94	09956940	MJW	1579-601	1806	\$180.00	\$15,668.98
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12/23 10	10469601		613-77	1615	\$90.00	\$13,619.98
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12/24 17	09453718	BJ	249-107	1202	-\$54.00	\$14,123.98
12/24 18	09453718		249-107	1251	-\$110.00	\$14,233.98
12/24 78		REPLENISHMENT		9204	-\$10,000.00	\$24,233.98
12/29 12	10631965	4293-4	ARC	2202	\$90.00	\$24,143.98
12/29 39	10139639	LSN	2635-110	1801	\$770.00	\$23,373.98
12/29 382	10468073	GRT	117-470	2617	\$65.00	\$23,308.98
12/30 1	10399326	ARC	117-447	1614	\$172.00	\$23,136.98
12/30 4	09604158	4380-102	WTG	2253	\$475.00	\$22,661.98
12/30 9	09501270	RWF	263-2063	1251	-\$110.00	\$22,771.98
12/30 14	76221103	3438-263	TPP	8521	\$40.00	\$22,731.98
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12/31 51	09530732	LSN	36-1339	8001	\$30.00	\$22,571.98
12/31 164	1813505	*		6205	\$100.00	\$22,471.98
12/31 165	1813505	*		6201	\$400.00	\$22,071.98

START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE
\$14,813.98	\$14,333.00	\$21,591.00	\$22,071.98

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Date: December 3, 2003

By:

William F. Gadano, Registration No. 37,136

Docket No.: 4380-102 (formerly 045112-0085)

COPY**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of)
Steven M. BESETTE)
Serial No.: 09/604,158) Group Art Unit: 1651
Filed: June 27, 2000) Examiner: Patricia Patten
For: PESTICIDAL COMPOSITIONS)
CONTAINING PLANT ESSENTIAL OILS)
AGAINST DUST MITES)

AMENDMENT AND REPLY

Honorable Commissioner for Patents
Washington, DC 20231

Dear Sir:

This paper is being filed in response to an Office Action dated 03 June 2003. Please grant a **three-month extension of time** for entry of this communication. Please charge the **small entity** extension of time fee to Deposit Account No. **14-1140**.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 3 of this paper.

Application No. 09/604,158
Attorney Docket No. 4380-102

IN THE CLAIMS

This listing of claims will replace all prior versions and listings of claims in the above-captioned patent application:

Claims 1-10 (Canceled)

Claim 11 (Currently Amended) A method for killing or controlling house dust mites, which comprises

applying to a house dust mite or the a locus where control of house dust mites is desired, a pesticidally-effective amount of the a composition of claim 1 comprising an active ingredient and a pesticidally-acceptable carrier, wherein the active ingredient is phenyl ethyl propionate.

Claims 13-33 (Canceled)

Claim 34 (new) The method of claim 11, wherein the active ingredient further comprises benzyl alcohol.

Claim 35 (new) The method of claim 11, wherein the active ingredient further comprises eugenol.

Application No. 09/604,158
Attorney Docket No. 4380-102

REMARKS

Claims 11, 34 and 35 are pending. Claim 1 and withdrawn claims 7, 12-13 and 16-33 are canceled without prejudice to, or disclaimer of, the subject matter they contain. Applicants respectfully reserve the right to file continuing applications for canceled and/or disclosed subject matter. Claim 11 is amended and claims 34 and 35 are added to encompass infringing subject matter. No new matter has been added.

The Rejection Under 35 U.S.C. §102(e)

The Office Action states that claim 1 remains rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Bessette et al (U.S. Patent No. 6,183,767) for the reasons of record in the prior Office Action. Applicant has canceled claim 1, thereby rendering this rejection moot.

The Rejection Under 35 U.S.C. §103(a)

The Office Action rejects claims 1 and 11 under 35 U.S.C. §103(a) as allegedly being unpatentable over Franklin et al. (U.S. 6,130,253) in view of Wolf et al. (EP 475253). Applicant respectfully traverses this rejection for at least the following reasons.

Franklin merely discloses pesticides for the extermination of terrestrial arthropods comprising formulations of a combination of terpenes in aqueous solutions which may be used together with citral. Wolf merely discloses compositions for controlling house mites comprising menthol. Neither Franklin nor Wolf discloses or suggests methods of using compositions comprising phenyl ethyl propionate as an active ingredient, let alone phenyl ethyl propionate in

Application No. 09/604,158
Attorney Docket No. 4380-102

combination with benzyl alcohol or eugenol, as in the presently claimed invention. Thus Applicant respectfully requests reconsideration and withdrawal of this rejection.

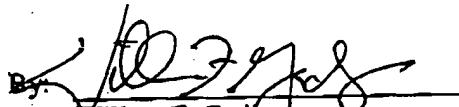
CONCLUSION

If anything further could be done to place the above-captioned patent application in better condition for allowance (i.e., via Examiner's Amendment), the please contact the undersigned attorney at the telephone number listed below.

Please grant any extensions of time deemed necessary. The Commissioner is hereby authorized to charge any deficiency in the small-entity fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper filed hereafter) to Deposit Account No. **14-1140**.

Respectfully submitted,

NIXON & VANDERHYE P.C.


Willem F. Gadiano
Reg. No. 37,136

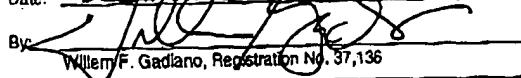
WFG:ewm
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Arlington, VA 22201-4714
Telephone: (703) 816-4057
Facsimile: (703) 816-4100

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Date: December 3, 2003

By:


Willem F. Gadiano, Registration No. 37,136